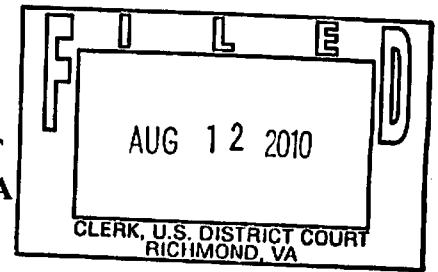


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**



UNITED STATES OF AMERICA,

Plaintiff

v.

CASE NO. 3:10CR225

UNIVERSAL LEAF TABACOS LTDA.,

Defendant.

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

This matter is before the court pursuant to Title 28 U.S.C. § 636(b)(1)(B) and (b)(3) upon the Defendant Corporation's request to enter pleas of guilty by its duly authorized representative, pursuant to Fed. R. Crim. P. 11 and a written plea agreement that has been entered into by the United States and the Defendant Corporation. The matter was presented to the court upon the written consent of the duly authorized representative of the Defendant Corporation and counsel for the Defendant Corporation to proceed before a United States Magistrate Judge, said consent including the Defendant Corporation's understanding that it consented to not only having the Magistrate Judge conduct the hearing, but also to having the Magistrate Judge make necessary findings and accepting any guilty plea as may be entered that could not be withdrawn except for fair and just reason.

The Court accepted the Defendant Corporation's waiver of its right to proceed by indictment after specific inquiry was made of the Defendant Corporation's representative as to his understanding of the right to require prosecution by indictment. The Defendant Corporation,

by its duly authorized representative, pled guilty to a Two Count Criminal Information in open court and pursuant to a Rule 11 inquiry. Upon consideration of the responses and statements made by the Defendant Corporation's representative under oath, on the record, and based upon the written plea agreement and statement of facts presented, the court makes the following findings:

1. That the Defendant Corporation's representative is duly authorized to enter a plea of guilty on behalf of the Defendant Corporation;
2. That the Defendant Corporation understands the nature of the charges against it to which its pleas are offered;
3. That the Defendant Corporation understands what the maximum possible penalties are upon conviction of the offenses charged, including the imposition of mandatory monetary assessments on each charge;
4. That the sentencing court has jurisdiction and authority to impose any sentence within the statutory maximums provided, but that the court will determine the Defendant Corporation's actual sentence in accordance with 18 U.S.C. § 3553(a) and that the court, after considering the factors set forth in 18 U.S.C. § 3553(a), may impose a sentence above or below the advisory sentencing range, subject only to review by higher courts for reasonableness;
5. That the Defendant Corporation understands its right to persist in a plea of not guilty and require that the matter proceed to trial with all the rights and privileges attending a trial, including, but not limited to: the right to effective assistance of counsel; the right to use the power and processes of the court to compel the production of relevant evidence on the Defendant Corporation's behalf; the right

to confront and cross-examine adverse witnesses; the right to present relevant evidence; and the right to trial by jury;

6. That the Defendant Corporation understands that it is waiving any right to appeal whatever sentence is imposed by pleading guilty, even if the sentence is erroneous, as long as said sentence does not exceed the total statutory penalties provided;
7. That the Defendant Corporation understands all provisions of the written plea agreement, and attachments, which was reviewed in essential part with the Defendant Corporation's representative during the proceeding;
8. That the pleas of guilty entered by the Defendant Corporation's representative were knowingly and voluntarily entered and are not the result of force or intimidation of any kind; nor are they the result of any promises other than the representations set forth in the plea agreement, and its attachments; and
9. That the pleas of guilty entered by the Defendant Corporation's representative were knowingly and voluntarily made with full knowledge of the consequences and with an independent basis in fact to support said plea.

Accordingly, the court accepted the Defendant Corporation's pleas of guilty to a Two Count Criminal Information and entered judgment of guilt on the subject charges. It is therefore the recommendation of this court that its findings, including the acceptance of the Defendant Corporation's pleas of guilt and resulting judgment of guilt, be adopted.

Let the Clerk forward a copy of this report and recommendation to the Honorable Robert E. Payne and to counsel of record.

It is so Ordered.

<p style="text-align: center;"><u>/s/</u> Dennis W. Dohnal United States Magistrate Judge</p>

Dated: AUG 12 2010

NOTICE

The Defendant is advised that the Defendant Corporation may file specific written objection to this report and recommendation with the court within fourteen (14) days of this date. If objection is noted, the party objecting must promptly arrange for the transcription of the relevant record and file it forthwith with the court for its use in any review. Failure to object in accordance with this notice, including the requirement for preparation of a transcription of the relevant portions of the record, will constitute a waiver of any right to *de novo* review of the matter and may result in adoption of the recommendation, including the finding of guilt as entered by the magistrate judge.